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| 67521                                 | 7590        | 04/02/2008           | EXAMINER             |                  |
| TECHNOLOGY & INNOVATION LAW GROUP, PC |             |                      | LE, MIRANDA          |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/799,412             | JAWA ET AL.         |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | MIRANDA LE             | 2167                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 18 December 2007.  
 2a) This action is **FINAL**.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-7 and 23-41 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-7 and 23-41 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/08/08, 01/28/08</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. This communication is responsive to Amendment, filed 12/18/07.

Claims 1-7, 23-41 are pending in this application. This action is made non-Final due to an 101 rejections should have been made in the previous action.

***Information Disclosure Statement***

2. Applicants' Information Disclosure Statements, filed 02/08/08, and 01/28/08, have been received, entered into the record, and considered. See attached form PTO-1449.

***Claim Objections***

3. Claims 33-41 are objected to because of the following informalities: Claims 33-41 depend on claim 32, therefore, "A computer readable medium as recited in claim 32" should be read as "A computer readable storage medium as recited in claim 32". Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

4. Independent claims 32, 41 are computer readable storage medium claims. For purpose of clarification, in light of Applicant's disclosure, specifically on page 23, paragraph [0061], the examiner interprets the term "machine readable media" as claimed limitation "computer-readable storage medium". As such, the computer-readable storage media claims explicitly include hardware elements, which establish a statutory category.

5. Notably, Applicant is advised to amend the instant specification by deleting on page 23, par. [0061], lines 18-19, the reference to “a carrier wave” so that Applicant has provided evidence that “a computer readable storage medium” intended to be covered only as “hardware device ROM, RAM”. As such, claims 32, 41 recite the only statutory subject matters.

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claim 30 is rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Claim 30 recites “a computer system..., is capable of: querying...; receiving...; populating...”; however, each recited element of the system may be reasonably interpreted by one of ordinary skill as software alone; for example, on page 21, par [0055] indicates “the techniques of the present invention may be implemented on software and/or hardware” suggesting the claim as a whole can be implemented using software means only, as these elements that make up the system are all software applications that do not result in a tangible practical application under 35 U.S.C. § 101. Thus, the system is not tangible embodied in a manner so as to be executable. The claim lacks the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 U.S.C. § 101, instead being software per se. See MPEP 2106.01.

As such, the claimed system does not define any specific hardware and needs to be amended to include physical computer hardware (e.g. processor, memory) to execute the software components.

8. Claim 31 is rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Claim 31 recites “A server; ...is capable of: “receiving...; sending...; ...”, however, these instruction codes are reasonably interpreted just software. Notably, reciting a server in the preamble holds no patentable weight unless it is suggested in the body of the claim. Since the body of the claim does not define any specific hardware (i.e. memory, processor...) to execute the recited software applications, the claimed server is not limited to embodiments which include the hardware necessary to enable any underlying functionality to be realized, instead being software per se. See MPEP 2106.01.

#### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 1-7, 30-33, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. (U.S. Patent No. 6,498,897), in view of Binding et al. (US. Patent No. 6,775,687).

**As to claims 1, 30, 32,** Nelson teaches a method of retrieving digital media comprising:  
*querying the server (i.e. a client system 42 sends a request to play a media file (e.g., a movie title) media server 40 sends back header information that has previously been extracted from the requested media file, col. 6, lines 13-34), based on the metadata, for information required to populate one or more of the records associated with the metadata after receiving the metadata, wherein the populating of the one or more records effectively provides one or more populated records corresponding to the one or more records (i.e. Further, in the case of playback of complex assets, artificial headers 54 can be injected when appropriate into the decoder 56. This allows a smooth playback of the digital media data associated with complex assets, such as clip, parallel, sequential and composite assets, col. 6, lines 8-12);*  
*receiving the information required to populate the one or more records of the records associated with the metadata after receiving the metadata associated with the records and in response to the querying of the server (i.e. On media server side 40, a proxy server 44 can be used to receive a request from client system side 42 for playback of a media file. Proxy server 44 is used because it can be implemented with a cache in memory to provide quick access to header information once retrieved, col. 5, lines 19-37);*  
*populating the one or more records after receiving the information required to populate the one or more records, thereby effectively providing one or more populated records based on the metadata associated with the one or more records (i.e. After receiving the name of the requested media file from proxy server 44, media pump 46 retrieves the media file from media*

*file system 50. Media pump 46 then processes the media file, prepares packets for transmission and streams the packets to client system side 42, col. 5, lines 38-49); and*

subsequently receiving digital media associated with at least one of the populated records (*i.e. Further, in the case of playback of complex assets, artificial headers 54 can be injected when appropriate into the decoder 56. This allows a smooth playback of the digital media data associated with complex assets, such as clip, parallel, sequential and composite assets, col. 6, lines 8-12).*

Nelson does not specifically teach:

querying a server for features of the server;  
receiving the features of the server, the features including information about at least one digital media database, wherein the information about the at least one digital media database includes metadata about records, and wherein the records pertain to digital media metadata or media collection data or both.

Binding teaches:

querying a server for features of the server (*i.e. This technique must function within the existing client-server protocol, allowing older versions of the client browser software to operate unchanged while enabling newer versions to recognize and respond to the server's information request, col. 4, lines 5-12);*

receiving the features of the server, the features including information about at least one digital media database (*i.e. The response is typically in the form of a displayable file, referred to as a "Web page," that may contain text, graphics, images, sound, video, etc. col. 1, lines 34-47),* wherein the information about the at least one digital media database includes metadata about

records, and wherein the records pertain to digital media metadata or media collection data or both (*i.e. GET request, See Fig. 3D*).

It would have been obvious to one of ordinary skill of the art having the teaching of Nelson and Binding at the time the invention was made to modify the system of Nelson to include the limitations as taught by Binding. One of ordinary skill in the art would be motivated to make this combination in order to request supplemental information from the client in view of Binding (col. 4, lines 5-12), as doing so would give the added benefit of allowing older versions of the client browser software to operate unchanged while enabling newer versions to recognize and respond to the server's information request as taught by Binding (col. 4, lines 5-12).

**As to claims 31, 41,** Nelson teaches a server for providing digital media to one or more devices, wherein said server is capable of:

receiving a querying (*i.e. a client system 42 sends a request to play a media file (e.g., a movie title) media server 40 sends back header information that has previously been extracted from the requested media file, col. 6, lines 13-34)* from the device for information required by the device to populate one or more of the records associated with the metadata after sending the metadata to the device (*i.e. Further, in the case of playback of complex assets, artificial headers 54 can be injected when appropriate into the decoder 56. This allows a smooth playback of the digital media data associated with complex assets, such as clip, parallel, sequential and composite assets, col. 6, lines 8-12*);

sending the device information required to populate the one or more records associated with the metadata (*i.e. The extracted header information and artificial header allows the client*

*side flexibility in handling initialization of the decoder for playback of these complex asset types, col. 2, lines 37-46), thereby allowing the device to populate the one or more records after receiving the information required to populate the one or more records in order to present the one or more records as one or more populated records (i.e. Another technical advantage of the present invention is the provision of a composite asset type that allows one asset name to refer to multiple encodings of the same asset. Also, the client side media control application is enabled to select the appropriate format and applications for playback based upon the specific characteristics of the client system, col. 2, lines 47-52;*

receiving a second query from the device regarding at least one of the one or more populated records (i.e. the player can select the first set of content descriptors, col. 8, line 65 to col. 9, line 10); and

sending digital media associated with the at least one populated record after receiving the second query from said device (i.e. When a player opens a movie, the player can be given back a movie object. From this movie object it can get an array of array of content descriptors. The player can then go through the array to figure out what type(s) of asset(s) that it will be playing. The player can also get the start offset in case the asset is a clip so that the player can adjust the time accordingly, col. 8, lines 58-64).

Nelson does not fairly teach:

receiving a query from a device for features of the server;

sending the features of the server to the device in response to the query, the features including information about at least one digital media database, wherein the information about the at least one digital media database includes metadata about records, wherein the metadata can

be used by device to locally present the records as a first local presentation, and wherein the records pertain to digital media metadata or media collection data or both.

Binding teaches:

receiving a query from a device for features of the server (*i.e. This technique must function within the existing client-server protocol, allowing older versions of the client browser software to operate unchanged while enabling newer versions to recognize and respond to the server's information request, col. 4, lines 5-12*);

sending the features of the server to the device in response to the query, the features including information about at least one digital media database (*i.e. The response is typically in the form of a displayable file, referred to as a "Web page," that may contain text, graphics, images, sound, video, etc. col. 1, lines 34-47*), wherein the information about the at least one digital media database includes metadata about records, wherein the metadata can be used by device to locally present the records as a first local presentation, and wherein the records pertain to digital media metadata or media collection data or both (*i.e. GET request, See Fig. 3D*).

It would have been obvious to one of ordinary skill of the art having the teaching of Nelson and Binding at the time the invention was made to modify the system of Nelson to include the limitations as taught by Binding. One of ordinary skill in the art would be motivated to make this combination in order to request supplemental information from the client in view of Binding (col. 4, lines 5-12), as doing so would give the added benefit of allowing older versions of the client browser software to operate unchanged while enabling newer versions to recognize and respond to the server's information request as taught by Binding (col. 4, lines 5-12).

**As to claims 2, 33,** Nelson teaches the records to both digital media metadata and media collections and multiple queries (*i.e. an install command is received by the media server, col. 4, line 59 to col. 5, line 4*) are required to populate the records associated with the metadata (*i.e. a client system 42 sends a request to play a media file (e.g., a movie title) media server 40 sends back header information that has previously been extracted from the requested media file, col. 6, lines 13-34*).

**As per claim 3,** Nelson teaches using a local database management system to manage the information contained in the media collection data records and the digital media metadata records (*i.e. On client system side 42, a media control application 52 receives the header information from proxy server 44 .... Media control application 52 uses the header information to create an artificial header 54 which can be stored in memory for quick access by media control application 52. Media control application can inject artificial header 54 into an appropriate decoder 56 to initialize decoder 56 for playback of the media file as appropriate for decoder 56 and for the format of the digital media, col. 5, line 49 to col. 6, line 7*)

**As per claim 4,** Nelson teaches the server is a remote device across a network (*i.e. a media server side 40 and a client system side 42. On media server side 40, a proxy server 44 can be used to receive a request from client system side 42 for playback of a media file. Proxy server 44 is used because it can be implemented with a cache in memory to provide quick access to header information once retrieved, col. 5, lines 19-37*).

**As per claim 5,** Nelson teaches requesting media from across a network; and receiving the requested media across the network (*i.e. a media server side 40 and a client system side 42.* *On media server side 40, a proxy server 44 can be used to receive a request from client system side 42 for playback of a media file. Proxy server 44 is used because it can be implemented with a cache in memory to provide quick access to header information once retrieved, col. 5, lines 19-37).*

**As per claim 6,** Nelson teaches presenting the received media at a client device, wherein presenting the received media includes playing the media for a user (*i.e. When a player opens a movie, the player can be given back a movie object. From this movie object it can get an array of array of content descriptors. The player can then go through the array to figure out what type(s) of asset(s) that it will be playing. The player can also get the start offset in case the asset is a clip so that the player can adjust the time accordingly, col. 8, lines 58-64).*

**As per claim 7,** Nelson teaches the method is stored as instructions on a computer-readable medium (*Figs. 1-5*).

11. Claims 23-29, 34-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. (U.S. Patent No. 6,498,897), in view of Binding et al. (US. Patent No. 6,775,687), and further in view of Hoffert et al. (U.S. Patent No. 6,374,260).

**As to claims 23, 34,** Nelson, Binding do not explicitly teach the metadata effectively provides a first representation of the one or more records; and

the populated one or more records effectively provide a second representation of the one or more records.

However, Hoffert teaches the metadata effectively provides a first representation of said one or more records (*i.e. the name of the media file; URL of the media file; text string which is associated with the media file anchor reference; title of the HTML document containing the media file; keywords associated with the HTML document; URL for the HTML document; containing the media file reference ; keywords embedded in the media file ; textual; annotations in the media file; script dialogue, closed captioning and lyric data in the media file; auxiliary data in the media file (copyright, author, producer, etc.); auxiliary data located within the media reference in the HTML document; auxiliary data located in an associated media description file, col. 5, lines 40-63*); and

the populated one or more records effectively provide a second representation of the one or more records (*i.e. the name of the media file; URL of the media file; text string which is associated with the media file anchor reference; title of the HTML document containing the media file; keywords associated with the HTML document; URL for the HTML document; containing the media file reference ; keywords embedded in the media file ; textual; annotations in the media file; script dialogue, closed captioning and lyric data in the media file; auxiliary data in the media file (copyright, author, producer, etc.); auxiliary data located within the media reference in the HTML document; auxiliary data located in an associated media description file, col. 5, lines 40-63*).

It would have been obvious to one of ordinary skill of the art having the teaching of Nelson, Binding and Hoffert at the time the invention was made to modify the system of Nelson, Binding to include the limitations as taught by Hoffert.

One of ordinary skill in the art would be motivated to make this combination in order to analyze of the content of files found in the search and for display of previews of the information in view of Hoffert (*col. 2, lines 29-36*), as doing so would give the added benefit of allowing a user to easily identify media objects of interest as taught by Hoffert (*col. 3, lines 12-20*).

**As to claims 24, 35,** Hoffert teaches:

using the metadata to effectively provide a first representation of the one or more records (*col. 5, lines 40-63; Fig. 4A*); and  
populating the one or more records to effectively provide a second representation of the one or more records (*col. 5, lines 40-63; Fig. 4A*).

**As to claims 25, 36,** Hoffert teaches the first representation provides a first level of detail with respect to the one or more records (*col. 5, lines 40-63; Fig. 4A*); and  
the second representation provides a second level of detail with respect to the one or more records (*col. 5, lines 40-63; Fig. 4A*).

**As to claims 26, 37,** Hoffert teaches the second level of detail represents the one or more records in greater detail than the first level of detail (*col. 5, lines 40-63; Fig. 4A*).

**As to claims 27, 38,** Hoffert teaches the first representation represents the one or more records in accordance with a first aspect of representation (*col. 5, lines 40-63; Fig. 4A*); and the second representation represents the one or more records in accordance with a second aspect of representation that is different than the first aspect of representation (*col. 5, lines 40-63; Fig. 4A*).

**As to claims 28, 39,** Hoffert teaches querying the server for information required to provide a third representation of the one or more records (*i.e. query the streaming media to obtain appropriate content attributes and header data, col. 6, lines 9-36*).

**As to claims 29, 40,** Hoffert teaches querying the server for information required to further populate the at least one record in order to effectively provide a third representation of the at least one record (*i.e. query the streaming media to obtain appropriate content attributes and header data, col. 6, lines 9-36*).

#### ***Response to Arguments***

12. Applicant's arguments filed 12/18/08 have been fully considered but they are not persuasive.

#### **PATENTABILITY OF CLAIMS 1-7 AND 23-41**

In response to applicant's argument with respect to claim 1 "Nelson, et al. does not teach or suggest querying a server for features of the server where the features include information about at least one digital media database. Further, the information being

received from the server, as recited in claim 1, includes metadata about records within the digital media database”. The examiner respectfully disagrees for the following reasons:

First, it is noted that the examiner did not rely on Nelson to teach the claimed limitation “querying a server for features of the server”, this limitation is taught by Binding et al. as follows:

a. Nelson teaches the claimed limitation “querying the server for information required to populate one or more of the records associated with the metadata after receiving the metadata, wherein the populating of the one or more records effectively provides one or more populated records corresponding to the one or more records” as:

**querying the server** corresponds to a client system 16 of Nelson can send a request to media server 12 (*i.e. In general, a user of a client system 16 can send a request to media server 12 across communication network 18. The request can identify a digital media title that the user desires to playback on client system 16. Media server 12 responds by accessing the appropriate media file from digital media data 14, separating the media file into data packets and streaming data packets to client system 16. Client system 16 receives the data packets and uses a decoder to process the data packets and playback the digital media data. There are a number of commercially available media server products which generally operate within an environment like that of FIG. 1, col. 3, lines 24-42).*

**metadata** corresponds to digital media title of Nelson (*See col. 3, lines 24-42)*  
**information required to populate one or more of the records** corresponds to header information for the media file from database, col. 5, lines 19-37, See Fig. 5 (*i.e. By performing*

*header information extraction and storing of media metadata during the install process, **the media server is prepared to quickly access and send the header information to a requesting client system.** This allows the media server to distribute some of the processing load involved in playback thus increasing the performance and scalability of the media server. Header information extraction can also be implemented for a real-time feed from an encoded source. In such case, however, there may not be installation of a digital media file. Rather, the header information is extracted from the streamed data and passed to the client system. Once at the client system, the header information can be used in the same manner, col. 5, lines 5-17).*

b. Nelson teaches “receiving the information required to populate the one or more records associated with the metadata after receiving the metadata associated with the records and in response to the querying of the server” as:

**the information** (required to populate the one or more records associated with the metadata) corresponds to header information of Nelson, col. 5, line 49 to col. 6, line 7 (*i.e. On client system side 42, a media control application 52 receives **the header information from proxy server 44.** Media control application 52 can, for example, be a plug-in added to a web browser such as NETSCAPE NAVIGATOR. Media control application 52 uses the header information to create an artificial header 54 which can be stored in memory for quick access by media control application 52. Media control application can inject artificial header 54 into an appropriate decoder 56 to initialize decoder 56 for playback of the media file as appropriate for decoder 56 and for the format of the digital media. For example, media control application 52 can inject the artificial header and can then scan the packet stream from media pump 46 for a*

*packet start code. In this case, when media control application 52 identifies a packet start code, media control application can pass the packet stream to decoder 56. Decoder 56, having been properly initialized, can process the packet stream and provide media output to output player 58 which presents the digital media to the user. Depending on the decoder/player, in some cases, media control application 52 first scans for the packet start code and then inject headers. This is needed, for example, for some MPEG-1 decoders because they expect a video sequence header (VSH) in the first video packet that they decode. If the first video packet identified in the packet stream does not contain a VSH, then a header can be injected into the first video packet, col. 5, line 49 to col. 6, line 7)*

**receiving the information required to populate the records** corresponds to send the header information to a requesting client system of Nelson, col. 5, lines 5-17, See Fig. 5 (*i.e. By performing header information extraction and storing of media metadata during the install process, the media server is prepared to quickly access and send the header information to a requesting client system. This allows the media server to distribute some of the processing load involved in playback thus increasing the performance and scalability of the media server.* Header information extraction can also be implemented for a real-time feed from an encoded source. In such case, however, there may not be installation of a digital media file. Rather, the header information is extracted from the streamed data and passed to the client system. Once at the client system, the header information can be used in the same manner, col. 5, lines 5-17).

c. Nelson teaches “populating the one or more records after receiving the information required to populate the one or more records, thereby effectively with the one or more records” as:

**populating** corresponds to streaming data packets to client system of Nelson (*i.e. Media server 12 responds by accessing the appropriate media file from digital media data 14, separating the media file into data packets and streaming data packets to client system 16. Client system 16 receives the data packets and uses a decoder to process the data packets and playback the digital media data. There are a number of commercially available media server products which generally operate within an environment like that of FIG. 1, col. 3, lines 24-42*).

**effectively** corresponds to a smooth playback of Nelson (*i.e. Further, in the case of playback of complex assets, artificial headers 54 can be injected when appropriate into the decoder 56. This allows a **smooth playback** of the digital media data associated with complex assets, such as clip, parallel, sequential and composite assets, col. 6, lines 8-12*)

d. Nelson teaches “subsequently retrieving digital media associated with at least one of the populated records” as:

**subsequently retrieving digital media** corresponds to playback of the digital media associated with sequential assets of Nelson (*i.e. Further, in the case of playback of complex assets, artificial headers 54 can be injected when appropriate into the decoder 56. This allows a **smooth playback of the digital media data** associated with complex assets, such as clip, **parallel**, **sequential** and composite assets, col. 6, lines 8-12*).

e. In response to applicant's argument with respect to Nelson does not teach "the information being queried from the server concerns the information required to populate one or more records of the media database", the examiner notes that "one or more records" of the claimed limitation equates to a plurality of data packets of Nelson (*i.e. Media server 12 responds by accessing the appropriate media file from digital media data 14, separating the media file into data packets and streaming data packets to client system 16. Client system 16 receives the data packets and uses a decoder to process the data packets and playback the digital media data.* There are a number of commercially available media server products which generally operate within an environment like that of FIG. 1, col. 3, lines 24-42), so as when a user of Nelson sends a request for playing back a media file - this step implies querying information necessary for receiving the media file – the user of Nelson receives the header information as a required information to play back the media file. Therefore, the header information that queried by the Nelson user reads on "the information being queried from the server concerns the information required to populate one or more records of the media database" (*i.e. For playback, header information associated with a complex asset is received, col. 2, line 7-19).*

It should be noted that the header information is a condition for distributing the media file of Nelson, which equates to a requirement information as in the claimed limitation "Receiving the information required to populate the records" (*i.e. By performing header information extraction and storing of media metadata during the install process, the media server is prepared to quickly access and send the header information to a requesting client system. This allows the media server to distribute some of the processing load involved in playback thus increasing the performance and scalability of the media server. Header information extraction*

*can also be implemented for a real-time feed from an encoded source. In such case, however, there may not be installation of a digital media file. Rather, the header information is extracted from the streamed data and passed to the client system. Once at the client system, the header information can be used in the same manner, col. 5, lines 5-17).*

f. Nelson teaches “subsequent to populate one or more records of the digital media database” as:

**subsequently retrieving digital media** corresponds to playback of the digital media associated with sequential assets of Nelson (*i.e. Further, in the case of playback of complex assets, artificial headers 54 can be injected when appropriate into the decoder 56. This allows a smooth playback of the digital media data associated with complex assets, such as clip, parallel, sequential and composite assets, col. 6, lines 8-12.*)

One or more records of the claim limitation equates to a plurality of data packets of Nelson (*i.e. Media server 12 responds by accessing the appropriate media file from digital media data 14, separating the media file into data packets and streaming data packets to client system 16. Client system 16 receives the data packets and uses a decoder to process the data packets and playback the digital media data. There are a number of commercially available media server products which generally operate within an environment like that of FIG. 1, col. 3, lines 24-42).*

It should be noted that, in order to play back the media file of Nelson, the media server 12 of Nelson populates a plurality of packets to the client (*i.e. Media server 12 responds by accessing the appropriate media file from digital media data 14, separating the media file into*

*data packets and streaming data packets to client system 16. Client system 16 receives the data packets and uses a decoder to process the data packets and playback the digital media data. There are a number of commercially available media server products which generally operate within an environment like that of FIG. 1, col. 3, lines 24-42).*

Second, although Nelson does not explicitly teach “querying a server for features of the server” and “receiving the features of the server, the features including information about at least one digital media database, wherein the information about the at least one digital media database includes metadata about records, and wherein the records pertain to digital media metadata or media collection data or both”, Binding teaches these limitation as follow:

Notably, according to the instant specification, par [0042], the concept of “features” are specified as “At 415 the server responds to the SERVER-INFO request with information describing a series of features supported by or required by the server. The information might, for example, include information about the server-side media management system 200, the number of available databases, whether and what login procedures are required, whether updates are supported, whether persistent identification numbers are supported, whether non-standard content codes are supported, and the protocol version”. Similarly, Binding teaches the claimed limitation “query a server for features of the server” as follows:

**query** corresponds to a request of Binding (*i.e. The processing of FIG. 4 begins at Block 405, where the server receives a request for Web content from a client. In the preferred embodiment, this request is a typical HTTP GET request (according to the prior art) containing, among other information, the requested URL (see, e.g., 310 of FIG. 3B). The request may*

optionally include supplemental information fields for use by the server. The URL in this request may originate from a variety of sources, col. 10, lines 1-36).

**features** corresponds to supplemental information fields of Binding (*i.e. The processing of FIG. 4 begins at Block 405, where the server receives a request for Web content from a client. In the preferred embodiment, this request is a typical HTTP GET request (according to the prior art) containing, among other information, the requested URL (see, e.g., 310 of FIG. 3B). The request may optionally include supplemental information fields for use by the server. The URL in this request may originate from a variety of sources, col. 10, lines 1-36).*

**database** corresponds to sources of Binding (*i.e. The processing of FIG. 4 begins at Block 405, where the server receives a request for Web content from a client. In the preferred embodiment, this request is a typical HTTP GET request (according to the prior art) containing, among other information, the requested URL (see, e.g., 310 of FIG. 3B). The request may optionally include supplemental information fields for use by the server. The URL in this request may originate from a variety of sources, col. 10, lines 1-36).*

Furthermore, Binding teaches the claimed limitation “receiving the features of the server, the features including information about at least one digital media database, wherein the information about the at least one digital media database includes metadata about records, and wherein the records pertain to digital media metadata or media collection data or both” as follows:

**receiving the features of the server** corresponds to any available ones of the one or more supplemental information fields of Binding (*i.e. determining whether the server can complete the client request; sending a completed response to the client request when the*

*determining has a positive result, wherein the completed response may reflect any available ones of the one or more supplemental information fields, col. 4, lines 32-63).*

It should be noted that as discussed in the previous paragraph, the feature of the invention described in the instant specification as information about the server-side media, (see [0042] ); thus, information about the server-side media, or feature equates to whether the server can complete the client request, and any available ones of the one or more supplemental information fields of Binding (*i.e. determining whether the server can complete the client request; sending a completed response to the client request when the determining has a positive result, wherein the completed response may reflect any available ones of the one or more supplemental information fields, col. 4, lines 32-63).*

**digital media database** corresponds to Web content, e.g. images, sound, video, of Binding (*i.e. The response is typically in the form of a displayable file, referred to as a "Web page," that may contain text, graphics, images, sound, video, etc. col. 1, lines 34-47).*

**information about at least one digital database** corresponds to whether the request content is available from this server of Binding (*i.e. The check at Block 410 also comprises determining whether the requested content is available from this server, col. 10, lines 1-36).*

**metadata about records** corresponds to supplemental information fields of Binding (*i.e. The request may optionally include supplemental information fields for use by the server, col. 10, lines 1-36).*

Therefore, Binding not only does teach query a server for features but also in a way query for information about at least one digital media database at the server. In response to applicant's argument that "Binding enables a server to request and obtain supplemental information that is

not provided in a client's original request", the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Accordingly, as all the claimed limitation have been addressed in the previous paragraphs, the combination of Nelson and Binding, does teach the invention as set forth in claim 1.

Claim 30 is a server for retrieving digital media, and claim 32 is a computer readable storage medium for retrieving digital media to perform the method of claim 1; under the same rationale as provided in claim 1, the same reasoning would be applicable to claim 30, 32. As such, claims 30, 32 cannot be patentably distinct from Nelson in view of Binding.

Claim 31 is a server for providing digital media to one or more devices, and claim 41 is a computer readable storage medium for providing digital media to one or more devices, are substantially similar in scope of claims 30 and 32; under the same rational as provided in claim 1, the same reasoning would be applicable to claim 31, 41. As such, claims 31, 41 cannot be patentably distinct from Nelson in view of Binding.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Miranda Le whose telephone number is (571) 272-4112. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Cottingham, can be reached on (571) 272-7079. The fax number to this Art Unit is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Miranda Le/

Primary Examiner, Art Unit 2167